IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

A.O. No. 267 of 2001
(Old A.O. No. 620 of 1996)

National Insurance Co. Ltd.
Through its Administrative Officer
Divisional Office, 25, M.G. Marg,
Allahabad ... Appellant

Versus

Smt. Ram Dayee
W/o Late Shri Jaman Singh and others ... respondents

Sri Prabhat Pandey, learned counsel for the appellant/Insurance Company.
Sri D.C.S. Rawat, Brief holder of Sri Rajendra Dobhal-learned counsel for the Respondents.

Hon'ble J.C.S. Rawat, J.

This appeal has been preferred against the award dated 24.08.1996 passed by Motor Accident Claim Tribunal, Uttarkashi allowing Rs. 1,06,000/- as compensation alongwith pendentilite and future interest @ 12% per annum to the claimant-respondents. Feeling aggrieved by the said award, the present appeal has been preferred.

The Insurance Company has preferred several appeals against the award of the Tribunal before the Division Bench. The Division Bench had held as under:-

> *"11. From the perusal of above, it is clear that the Section starts from the word, 'no' which creates a prohibition for raising the grounds of appeal by the Insurance Company, except on the grounds mentioned in clause (a) or clause (b) of sub-section (2). Sub clause (c) of sub clause (i) of clause (a) of sub-section (2) of Sec. 149 specifically provides for the purpose not allowed by the permit under which*

the vehicle is used. A motor vehicle is used only for two purposes as comes out from Sec. 66 of the Act itself; one for carrying the passengers another for carrying the goods. The ground under the provision of sub clause (c) aforesaid shall be available to the insurer only in case, if goods are being carried by the passengers vehicle or passengers are being carried by a goods vehicle beyond the number mentioned in the permit. Then the use will be for the purpose not allowed by the permit. The breach of all the conditions of permit is not the ground available to the insurer to file an appeal. Only those conditions which are enumerated under clause (a) of sub section (2) aforesaid are only the grounds to be raised by the insurer as grounds of appeal."

This case is squarely covered by the above judgment passed by the Division Bench of **21st August, 2004 in A.O. No. 1362 of 2001 (Old No. 670 of 1996)**. The same point is also involved in this appeal. The claim petition is also arising out of the same accident. As such, this appeal is squarely covered by the above judgment.

Accordingly, the appeal is disposed of in terms of the judgment cited above.

All applications pending in this case are stand disposed of in terms of the judgment.

(J.C.S. Rawat, J.)

25th July, 2006
Shiv